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Attorneys for Plaintiff CREATIVE INTEGRATED
SYSTEMS, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

**CREATIVE INTEGRATED
SYSTEMS, INC.,**

Plaintiff,

v.

**NINTENDO OF AMERICA INC.;
NINTENDO CO., LTD.;
MACRONIX AMERICA, INC.;
and MACRONIX
INTERNATIONAL CO., LTD.,**

Defendants.

Case No. 2:10-CV-2735 PA (VBK)

**PLAINTIFF CREATIVE
INTEGRATED SYSTEMS, INC.'S
SUPPLEMENTED OFFER OF PROOF
FOR THE EXPERT OPINIONS OF
MICHAEL PELLEGRINO IN LIGHT
OF THE COURT'S RULING ON
MOTION IN LIMINE NO. 3**

Trial: March 4, 2014

Courtroom: 15

Judge: Hon. Percy Anderson

Pursuant to the Court's Order dated January 31, 2014 (Doc. 398) and the Court's ruling granting Defendants' Motion in Limine No. 3 after the conclusion of proceedings before the Jury on March 6, 2014, Plaintiff Creative Integrated Systems, Inc. ("Creative" or "CIS") submits the following supplemental proffer for its expert witness on damages, Michael Pellegrino, whom it will present at trial on March 7, 2014.

Mr. Pellegrino's opinions include a royalty rate adjustment to correct for Nintendo pricing. The formula for the rate adjustment is expressed on pages 61 and 62 of Mr. Pellegrino's expert report and is discussed in Paragraphs 193 through 195 of his Proffer (Doc. 452 (corrected version)). Defendants have not sought to exclude the royalty rate adjustment. Following the Court's ruling, the rate adjustment will be 0.44% instead of 0.59%.

The calculations under Defendants' proposed financial records are:

2.0% Royalty Rate:	\$ 5,185,212
+0.44% Adjustment:	\$ 1,130,515
2.44% Royalty Rate:	\$ 6,315,727

The calculations under the financial records that Defendants originally produced in the lawsuit are:

2.0% Royalty Rate:	\$ 5,984,116
+0.44% Adjustment:	\$ 1,302,864
2.44% Royalty Rate:	\$ 7,286,980

The foregoing amounts reflect the application of Mr. Pellegrino's opinion, less his design fee component, to Defendants' financial records.

This Supplemental Proffer incorporates by reference all other statements of anticipated testimony and anticipated exhibits that were included in the Plaintiff's Proffer filed on February 10, 2014, and corrected Proffer filed on February 18, 2014 (Doc. 452).

1 Dated: March 6, 2014

Respectfully submitted:

2 **BARNES & THORNBURG LLP**

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4 By: /s/Todd G. Vare _____

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